IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1653 OF 2005

Samasta Badave Samaj ..Petitioner.

Versus

Grampanchyat Shinganapur & Anr. ..Respondents.

Mrs. S.S. Gokhale for the Petitioner.

Mr. R.R. Bhosale for the Respondents.

CORAM : S. A. BOBDE, J.

DATED : 29TH JUNE, 2005.

P.C.:

1. Rule. Rule made returnable forthwith. Shri Bhosale waives notice for Respondents. Heard by consent.

2. This is the petition by the petitioner/ plaintiff, rejecting the application for injunction against the Respondent Grampanchayat Shinganapur, restraining him from withdrawing the amount of Rs. 1,77,925/- from the Bank of Baroda. This amount is

admittedly collected by the Grampanchayat in respect of the yearly fairs from stall holders during the months of Chaitra and Shravan. The learned Appellate court while rejecting the application of the petitioner, directed the parties to get Gut Nos. 637 and 642 demarcated prior to the next coming fair and submit a report to that court. However, as regards the amount deposited, the observation made by the lower Appellate Court in its order dated 4.3.2005 is as under :-

> "As far as the amount has deposited at Court, it is hard to differentiate that a particular amount is collected from the land Gat No. 637 and 642, therefore, the respondents are entitled to withdraw that amount and it cannot be stayed, but for avoiding the repetition, the order below will meet the ends of justice."

3. I am of the view that having regard to the nature of the dispute which pertains to the right of the Grampanchayat to allow to put stalls on the suit property and their right to collect fees from such

stall holders, it would be appropriate in the interest of justice to direct investment of the said amount in a fixed deposit of a nationalized bank, as was done earlier by this court while passing order dated 19.01.2004 in writ petition No. 9484/2003. The appellate court is directed to dispose of the appeal as expeditiously as possible in any case not later than six months from the date the parties appear before it. The parties are directed to appear before the appellate court on 11th July, 2005.

29.06.2005 (S.A.BOBDE,J.)

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